



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Susan Van De Water, M.D.

Respondent Name

Insurance Company of the State of PA

MFDR Tracking Number

M4-17-2013-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

February 28, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "POST DESIGNATED DOCTOR EXAM INCORRECT REDUCTION"

Amount in Dispute: \$600.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: Submitted documentation does not include a position statement from the respondent. Accordingly, this decision is based on the information available at the time of review.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
October 4, 2016	Examination to Determine Maximum Medical Improvement & Impairment Rating	\$600.00	\$600.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.250 sets out the fee guidelines for maximum medical improvement and impairment rating examinations provided on or after September 1, 2016.
3. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 1 – Workers' compensation jurisdictional fee schedule adjustment.
 - 2 – The charge for the procedure exceeds the amount indicated in the fee schedule.

Issues

1. Did Insurance Company of the State of PA respond to the medical fee dispute?
2. Is Susan Van De Water, M.D. eligible for additional reimbursement for the disputed services?

Findings

1. The Austin carrier representative for Insurance Company of the State of PA is Flahive, Ogden & Latson. Flahive, Ogden & Latson acknowledged receipt of the copy of this medical fee dispute on March 8, 2017.

28 Texas Administrative Code §133.307 states, in relevant part:

- (d) Responses. Responses to a request for MFDR shall be legible and submitted to the division and to the requestor in the form and manner prescribed by the division.
- (1) Timeliness. The response will be deemed timely if received by the division via mail service, personal delivery, or facsimile **within 14 calendar days after the date the respondent received the copy of the requestor's dispute** [emphasis added]. If the division does not receive the response information within 14 calendar days of the dispute notification, then the division may base its decision on the available information.

Review of the documentation finds that no response has been received on behalf of Insurance Company of the State of PA from Flahive, Ogden & Latson to date. The division concludes that Insurance Company of the State of PA failed to respond within the timeframe required by §133.307(d)(1). For that reason the division will base its decision on the information available.

2. Susan Van De Water, M.D. is seeking an additional reimbursement of \$600.00 for an examination to determine maximum medical improvement (MMI) and impairment rating (IR) performed based on a referral from the treating doctor on December 7, 2016. This service was billed with procedure code 99456-WP, 3 units.

28 Texas Administrative Code §134.250(3)(C) states that the following applies to examinations for MMI: "An examining doctor, other than the treating doctor, shall bill using CPT code 99456. Reimbursement shall be \$350." Review of the submitted documents finds that Dr. Van De Water, acting as a referral doctor, performed an examination for MMI. Therefore, she is eligible for reimbursement of \$350.00 for this service.

28 Texas Administrative Code §134.250(4) addresses reimbursement for examinations of IR and states, in relevant part:

- (C) For musculoskeletal body areas, the examining doctor may bill for a maximum of three body areas.
 - (i) Musculoskeletal body areas are defined as follows:
 - (I) spine and pelvis;
 - (II) upper extremities and hands; and
 - (III) lower extremities (including feet).
 - (ii) The MAR for musculoskeletal body areas shall be as follows:
 - (I) \$150 for each body area if the diagnosis related estimates (DRE) method found in the AMA Guides fourth edition is used.
 - (II) If full physical evaluation, with range of motion, is performed:
 - (-a-) \$300 for the first musculoskeletal body area; and
 - (-b-) \$150 for each additional musculoskeletal body area...
- (D) ...
 - (i) Non-musculoskeletal body areas are defined as follows:
 - (I) body systems;
 - (II) body structures (including skin); and
 - (III) mental and behavioral disorders.
 - (ii) For a complete list of body system and body structure non-musculoskeletal body areas, refer to the appropriate AMA Guides...
 - (v) The MAR for the assignment of an IR in a non-musculoskeletal body area shall be \$150.

Review of the submitted documentation finds that Dr. Van De Water performed an examination and provided an IR for the right ankle/foot with range of motion (ROM), left ankle/foot with range of motion, peripheral vascular disease, and skin. Reimbursement is calculated as follows:

Examination	AMA Chapter	\$134.250 Category	Reimbursement Amount
Maximum Medical Improvement			\$350.00
IR: Right Ankle/Foot (ROM)	Musculoskeletal System	Lower Extremities	\$300.00
IR: Left Ankle/Foot (ROM)			
IR: Peripheral Vascular Disease	Cardiovascular System	Body Systems	\$150.00
IR: Skin	Skin	Body Structures	\$150.00
Total MMI			\$350.00
Total IR			\$600.00
Total Exam			\$950.00

The total reimbursement for the services in dispute is \$950.00. Insurance Company of the State of PA reimbursed \$350.00. An additional reimbursement of \$600.00 is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$600.00.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Sec. 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$600.00, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

<hr/> Signature	<hr/> Laurie Garnes Medical Fee Dispute Resolution Officer	<hr/> April 6, 2017 Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.